

Zoning Subcommittee

Wednesday, September 23, 2009

Amherst Town Hall – Town Room

MINUTES

Attendance

ZSC Members present: Jonathan O’Keeffe, Bruce Carson, Richard Roznoy

Other Planning Board Members present: Denise Barberet

ZBA member present: Tom Ehrgood

Staff present: Jonathan Tucker, Planning Director; Christine Brestrup, Senior Planner

Others present: Walter Wolnik, Rob Crowner, Mary Streeter, Clare Bertrand, Leigh Andrews, Allan Powell

Meeting

The meeting began at approximately 5:10 p.m.

Mr. Ehrgood introduced himself and explained that he is the designated liaison to the ZSC from the Zoning Board of Appeals and that he will be attending meetings. He asked for guidance as to how he might best participate in the discussions.

Phased Growth/Density

Mr. Tucker explained the options for the Phased Growth/Density zoning amendment, noting that the amendment was very complicated. Town Counsel, Joel Bard, had suggested that Phased Growth could be extended for one more year, pending the completion of the Master Plan.

Mr. Tucker explained the three options:

- Delete Section 14, withdraw the proposed zoning amendment and put in a placeholder;
- Complete the zoning amendment for Fall Town Meeting [a prospect which is becoming more unlikely];
- Amend the Bylaw to add one year of phased growth while finishing the Master Plan.

Mr. O’Keeffe stated that he supported the idea of extending Phased Growth for one year and keeping that section of the Zoning Bylaw in place, [rather than deleting Section 14 and inserting a place-holder].

Mr. Crowner noted that it is important to keep working on this amendment and not put it off indefinitely. Mr. Tucker stated that this amendment is part of the method by which the Master Plan will be implemented and therefore it cannot be put off indefinitely.

Mr. Wolnik expressed concern that putting off this amendment might cause a delay in approval of the Master Plan. Mr. Tucker assured Mr. Wolnik that staff would urge the Board to complete the Master Plan. He explained that the courts had said that regulating growth by timing the issuance of permits was unconstitutional.

The Select Board will sign the warrant on October 5th. The final warrant language will need to be developed by the ZSC on September 30th.

Mr. Carson, Mr. O’Keeffe and Mr. Roznoy agreed by consensus to substitute the language regarding extension of the Phased Growth Bylaw at this time for the more elaborate changes previously drafted.

Non-conforming structures

Mr. Tucker explained this zoning amendment. Mr. O’Keeffe asked for examples to illustrate when this amendment might be useful. Mr. Ehrgood explained two cases, both including decks being constructed on non-conforming properties or buildings, where this amendment would have been useful.

Mr. Tucker stated that he will speak with Bonnie Weeks, Building Commissioner, to clarify the issue of increasing a non-conformity. Ms. Barberet suggested adding language to the amendment that would clearly state that non-conformities shall not be made worse.

Mr. O’Keeffe questioned the need to separate the three cases. Mr. Roznoy stated that the Building Commissioner might want to have specificity by having the three descriptions in three separate paragraphs.

The Zoning Subcommittee members decided to meet again on September 30th.

Neighborhood Business District

Mr. Tucker reviewed the changes that had been made since the last time the ZSC discussed this zoning amendment. There was discussion of the new draft language. Mr. Wolnik suggested substituting the word “or” for the word “and” in the description of “B-N Neighborhood Business” so that the description would read “providing goods and services within or near residential neighborhoods **or** as a transitional zone”.

The ZSC decided to allow Medical Group Practice by Special Permit in the B-N zone rather than by Site Plan Review. The ZSC decided to make the hours of operation of various uses more uniform in the

B-N District. For some of the more noisy uses the ZSC decided to have an opening time no earlier than 7:00 a.m. For veterinary uses the ZSC decided to add the word "overnight" to the restriction against boarding of animals and decided that the establishments should close by 7:00 p.m. They ended their discussion of conditions related to the uses allowed in the B-N District after discussion of Section 3.360.1 Medical group practice.

The VFW will not be affected by changes in the hours of operation of private clubs because it is grandfathered. Mr. Ehrgood questioned the use of the phrase "membership of longstanding" stating that it was not precise enough.

Mr. Carson suggested that uses could be regulated on the basis of square footage of space rather than number of employees.

Mr. Ehrgood asked if there were a plan to retrofit the train station. Mr. Tucker explained that there is an effort to save and expand train service in Amherst that is not directly connected to the zoning amendment.

Mr. Ehrgood stated that he lives near the neighborhood that will be affected by the proposed zoning changes and that he has a perspective on the changes both as a resident and as a ZBA member.

There was a lengthy discussion of the differences between self-service and full-service laundries and the differences between dry-cleaning establishments and laundries. There was discussion about on-site dry-cleaning versus a dry-cleaning establishment that sends clothes out to be processed. Mr. Powell expressed concern about the smells that emanate from dry-cleaning establishments. Mr. Ehrgood expressed concern about the proximity of residential uses to other types of commercial and retail uses.

Mr. Tucker noted that a Management Plan is required for Site Plan Review as well as for Special Permits and that many of the issues of concern could be worked out via review of the Management Plan. Ms. Streeter mentioned her experience with fumes when she was living near a dry-cleaning establishment.

Mr. Tucker stated that the Planning Board can demand that filters be installed and that new dry-cleaning establishments need to meet new state requirements, but that such uses could be by Special Permit rather than by Site Plan Review. There was continuing discussion about the regulation of dry-cleaning establishments. Mr. Ehrgood stated that with a Special Permit there is more opportunity for the Board to control and impose conditions on a use. The ZSC decided by consensus that it would be appropriate to separate dry-cleaning establishments and laundries with respect to permitting.

Mr. Ehrgood stated that he objected to the location of laundries and dry-cleaners near historic homes.

Mr. Tucker stated that [with respect to the way the uses would look] the Design Review Board's criteria could be used for both Site Plan Review and Special Permit processes and that the Historical Commission would also have an opportunity to put in comments on anything that would happen in a Historic District.

The ZSC decided by consensus to allow laundries and dry-cleaning establishments that did not have on-site processing of clothing to be treated the same with respect to permitting and to be permitted by Site Plan Review. However, dry-cleaning establishments that have on-site processing should be allowed only by Special Permit.

Ms. Bertrand recommended, with respect to hours of operation, that the ZSC should pick a common time for business establishments in the B-N District to shut down.

The ZSC discussed other uses in the B-N District, including Class I restaurants and trade shops. Mr. O'Keeffe suggested that an earliest time for opening might be 7:00 a.m., when many people are up. Ms. Brestrup suggested that anything that opens before 7:00 a.m., such as a bakery, might require a Special Permit.

Mr. Ehrgood expressed concern that all the new uses being proposed will be next to houses.

The ZSC discussed veterinarian establishments. Mr. O'Keeffe agreed that overnight boarding should be prohibited and that the use should be by Special Permit.

The ZSC discussed Medical group practices by Special Permit. Ms. Streeter noted that a Medical group practice may contain accessory ancillary uses and expressed concern about the number of trips that might be generated by such uses.

Mr. Ehrgood stated that the B-N District zoning amendments envisioned a "radical change in this part of town" and that the "Site Plan Review process was biased in favor of businesses."

Mr. O'Keeffe stated that zoning amendments entitled "Non-conforming structures" and "Footnote a" should be at the top of the agenda for September 30th.

The meeting was adjourned at 6:50 p.m.

Respectfully submitted by Christine Brestrup, Senior Planner

[Minutes Approved 9/30/09]

